

FILED
Clerk
District Court

JUL 28 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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*Attorney for Century Insurance Company Ltd. and
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IN THE DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS

ELENITA S. SANTOS and
ANGEL SANTOS

Plaintiffs,

vs.

HONGKONG ENTERTAINMENT
(OVERSEAS) INVESTMENT LTD .dba,
TINIAN DYNASTY HOTEL & CASINO and
CENTURY INSURANCE CO., LTD.

Defendants.

Civil Action No. 04-0030

DECLARATION OF ALFRED YUE
IN SUPPORT OF OPPOSITION
TO MOTION FOR PARTIAL
SUMMARY JUDGMENT

Date : August 11, 2005

Time : 8:00 a.m.

Judge: Tashima, Sr. Circuit Judge

I, Alfred Yue, do declare that:

1. I am the Managing Director of Hongkong Entertainment (Overseas) Investment Ltd. dba Tinian Dynasty. I make this declaration based on my personal knowledge and I am competent to testify as to the matters set forth.

2. Plaintiffs have yet to designate their expert witnesses pursuant to Federal Rule of Civil Procedure 26(a)(2) and have not produced the expert reports required by Rule.

3. Defendants consequently have not been able to examine Plaintiffs' expert reports and have not deposed Plaintiffs' experts.

4. The time for designating Defendants' experts has yet to arrive. Defendants need time to

1 consult with their expert witnesses in order to obtain evidence to counter the facts and inferences
2 included in Plaintiffs' declarations filed in support of her motion for partial summary judgment.

3 5. For example, defendants have not yet evaluated the assertions of Dr. Hofer relating to
4 emotional trauma allegedly caused by the accident. Plaintiffs have yet to produce expert reports as
5 required by Rule. Consequently, Defendants have yet to consult with an expert regarding Dr. Hofer's
6 opinions and the time for the designation of Defendants Experts has not arrived. Therefore, we have
7 no basis to independently evaluate and oppose Plaintiffs' assertions as to the proximate cause of these
8 alleged injuries.
9

10 6. Also, Defendants have yet to take the deposition of the Plaintiff and evaluate her
11 testimony in light of expert opinion about the proximate cause of her fall.

12 7. Furthermore, the initial opinion of the Defendant's retained Orthopaedic expert, Dr.
13 Rafael Claudio attributes much of the Plaintiff's injuries to subsequent treatment and there is a
14 genuine issue about the proximate cause of her current condition.

15 8. It is essential to our defense that we have the opportunity to examine the qualifications
16 and foundations for the facts and opinions put forward in the declarations supporting Plaintiffs Motion
17 for Summary Judgment.

18 9. Tinian Dynasty has never been cited for a building code violation relating to the absence
19 of a handrail on the stairway that is the subject of this lawsuit.

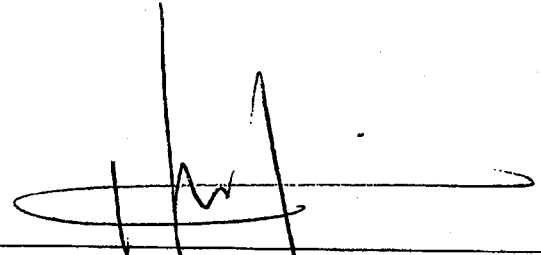
20 10. Tinian Dynasty was issued a certificate of occupancy for the Hotel that was valid at all
21 times relevant to the instant complaint.
22

23 11. Tinian Dynasty maintains policies and procedures for the safety and protection of our
24 hotel guests to protect them from unreasonable risk of harm.

25 12. Tinian Dynasty has no knowledge of anyone other than Mrs. Santos, ever falling on the
stairway that is the subject of this lawsuit.

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2 I declare by penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct to the best of my knowledge.
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5 Dated this 28th day of July, 2005.
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9 **ALFRED YUE**
10 Managing Director , Hongkong Entertainment
11 (Overseas) Investment, Ltd.
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